

# **STATES OF JERSEY**



## **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: 2006 REPORT**

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**Presented to the States on 8th September 2006  
by the Chief Minister**

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**STATES GREFFE**

# INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

## Sixth periodic report of the States of Jersey

**This is the sixth report submitted by the States of Jersey under Article 40, paragraph 1 of the Covenant. Since the fifth report, progress listed below has been made which is relevant to the provisions of the Covenant.**

**In accordance with the Guidelines for States reports under the ICCPR (revised 2001), the report is structured so as to follow the articles of the Covenant and refers specifically to the paragraph numbers of the Committee's concluding observations on the previous report.**

### Article 1

1.1 There are no further developments to report under this Article.

### Article 2

**Paragraph 8: "The Committee strongly urges the State party to ensure that all Covenant rights are given effect in domestic law (Art. 2)."**

2.1 Jersey will continue to give consideration from time to time to introducing the Covenant into the domestic law of the Island but has no present intention of doing so. However, the Covenant rights receive consideration in the drafting of new legislation which is put before the States Assembly for its approval.

**Paragraph 9: "The Committee recommends that human rights education be extended to members of the police force, the legal profession and other persons involved in the administration of justice, with a view to making it a part of their regular training. Human rights education should also be incorporated at every level of general education (Art. 2)."**

2.2 Human rights education has been offered across the whole of the States public sector services in Jersey. Independent evaluations have demonstrated significantly increased awareness of the implementation of human rights in the public service. Literature has been published providing human rights guidance for staff in the public service and further information is available on the States of Jersey website [www.gov.je](http://www.gov.je)

2.3 Specific human rights training has also been available for all members of the States police force and the honorary police. It is provided for all new probationer recruits and is a continuing thread throughout their training programme. It is included as a key principle in other courses provided by the police, for example investigative interviewing, community relations and firearms training.

2.4 Within the judiciary, human rights training is a core requirement for all members of staff, including the Magistrate's Court, and the Judicial Greffe, the court offices.

2.5 School education at various levels incorporates, as part of the personal, social and health education curriculum, preparation for citizenship, and developing knowledge and information for citizenship including a sense of justice. Amongst other issues, pupils are taught –

- The legal and human rights and responsibilities underpinning society and how they relate to citizens, including the role of the criminal and civil justice systems;
- The origins and implications of the diverse national, regional, religious and ethnic identities within the Island and the need for mutual respect and understanding.

### Article 3

**Paragraph 16. “The Committee notes that consideration has been given in Jersey to amending the Separation and Maintenance Orders (Jersey) Law 1953 and recommends that all three jurisdictions introduce legislation and other effective measures to prohibit discrimination between women and men (Arts. 3 and 26).”**

3.1 The Separation and Maintenance Orders (Jersey) Law 1953 empowers the Petty Debts Court to make orders with respect to the separation of married persons, and the maintenance of either party to and the children of the marriage. On 20th October 2000, the Separation and Maintenance Orders (Amendment No. 2) (Jersey) Law 2000 came into force. It provided for the jurisdiction of the Court to be exercised on an equal footing between either party to the marriage.

#### **Articles 4 – 5**

4.1 There are no further developments to report under these Articles.

#### **Article 6 – 8**

6.1 See report relating to Article 2 above.

#### **Article 9**

**Paragraph 12: “The Committee notes the information provided by the delegation that steps are being taken in the United Kingdom to ensure that its anti-terrorism laws comply with Article 9 of the Covenant, and urges Jersey, Guernsey and the Isle of Man to take corresponding measures.”**

9.1 Although the United Kingdom has maintained the reservation to this Article in respect of Jersey, the Island has enacted provisions of similar effect to the Terrorism Act 2000 by the Terrorism (Jersey) Law 2002, and subsequently has requested the United Kingdom to withdraw the reservation.

#### **Article 10**

10.1 There are no further developments to report under this Article.

#### **Article 11**

**Paragraph 13: “The Committee recommends that the authorities in Jersey consider amending relevant legislation to enable a withdrawal of the reservation to article 11 of the Covenant.”**

11.1 As a result of the Court of Appeal decision in the case of *Benest v. Le Maistre* [1998 JLR 213] the Royal Court is bound to exercise its discretion in relation to an application for an *acte à peine de prison* having regard to the provisions of Article 11 of ICCPR. Thus there is now adequate protection to ensure that the United Kingdom will not be in breach of the Covenant if the derogation is removed.

11.2 Consequently, the derogation on behalf of Jersey in relation to Article 11 ICCPR is no longer required and a formal request to the United Kingdom that it withdraws its derogation entered on Jersey’s behalf in relation to Article 11 has been made.

#### **Articles 12 – 16**

12.1 There are no further developments to report under these Articles.

#### **Articles 17 and 26**

**Paragraph 14: “The Committee recommends that measures be taken to remove and prohibit any discrimination on grounds of sexual orientation (Arts. 17 and 26).”**

- 17.1 On 5th July 2006 the States passed the Sexual Offences (Jersey) Law 200- which when it comes into force will, amongst other things, reform the law relating to the circumstances in which anal sex is lawful by removing the discrimination between the sexes.
- 17.2 Thus, it will no longer be an offence at customary law for two consenting persons, both aged 16 or more, to engage in an act of sodomy in private. Furthermore, no offence will be committed by a person under the age of 16 who engages in an act of sodomy with a person aged 16 or more (but an act of sodomy committed in a public lavatory will still be treated as having been committed in public).
- 17.3 In addition, work is actively being progressed on the introduction of a new Discrimination (Jersey) Law, which it is hoped will be put before the Assembly of the States of Jersey in 2006 (see report in relation to Article 26). It is intended that during 2007, public consultation will take place on legislation to prohibit sex discrimination, on grounds of gender, sexual orientation and trans-sexuality.

## **Articles 18 – 19**

See report relating to Article 2 above.

## **Article 20**

### **Crime (Racial Hatred) (Jersey) Law**

- 20.1 In 2002 the States of Jersey resolved to create a criminal offence for acts involving incitement to racial hatred. Proposals for a Crime (Racial Hatred) (Jersey) Law are to be brought to the Assembly of the States of Jersey for debate in 2006. This legislation will create a criminal offence of using threatening, abusive or insulting behaviour, words or written material with the intention of, or with the likelihood of, stirring up racial hatred, and may include provision regarding acts of violence against racial groups.
- 20.2 The provisions will also extend, subject to certain defences, to publishing or distributing material, showing or playing a recording of visual images, broadcasting, and public performance of a play. Possession of racially inflammatory material with a view to carrying out any of the above actions will also be an offence.
- 20.3 Subject to adoption of the draft Law by the States, it is hoped the legislation would be brought into force during 2007. It is proposed to address the issue of racial hatred in this way, as a discrete piece of legislation separate from the Discrimination Law (see report on Article 26 below), because enforcement of the law will involve criminal sanctions rather than civil penalties.
- 20.4 It is already the position that in cases brought before the courts under the existing criminal law, the court takes into account when considering the appropriate sentence any racially aggravating characteristics of the offence. That has been the position for many years. The new Law would provide additional protection against racist behaviour by the creation of the new criminal offences.

## **Article 21**

- 21.1 There are no further developments to report under this Article.

## **Article 22**

### **Employment Relations (Jersey) Law**

- 22.1 Following extensive public consultation on a framework for good industrial relations in Jersey, the Employment and Social Security Committee lodged a Report in 2002 on Employment Relations Legislation. A draft Employment Relations Law was prepared, which the Committee released for public consultation in September 2004. Simultaneously the Employment Forum released a consultation document on the content of the codes of practice to accompany the draft Law. The draft Law was adopted

by the States Assembly on 17th May 2005. Royal assent is awaited.

- 22.2 Amongst other matters, the draft Law will clarify the status of trade unions bodies as legal entities, with a definition wide enough to cover most trade unions, employer associations and staff associations. The Law will afford them the legal rights or responsibilities of other legal entities, and will clarify the obligations and immunities of trade unions and employers' associations, and their officials and members.
- 22.3 The new legislation is considered to be consistent with and promote the rights guaranteed under the International Labour Organisation Convention of 1948 to the extent that the Island is bound by it. Full details of the draft legislation are available on the States of Jersey website [www.gov.je](http://www.gov.je) <sup>[1]</sup>.

## Articles 23 – 24

### Marriage and Civil Status (Jersey) Law

- 23.1 The Marriage and Civil Status (Jersey) Law 2001 was brought into force on 1st May 2002. It replaced the *Loi (1842) sur l'Etat Civil* and is designed to update the procedures for the registration of births, deaths and marriages. The changes introduced by this Law will be of benefit to a wide cross-section of the community.
- 23.2 The new Law provides for the conduct of civil marriages in approved venues other than the Register Office, and will allow ministers and priests of all churches to celebrate marriages in their churches without the parish registrar being present. It will also provide couples with a wider choice of location in which to marry.
- 23.3 The Law also updates and introduces improved provisions relating to the rights and responsibilities regarding registration of births. Full details of the Law are available on the Jersey Legal Information Board website [www.jerseylegalinfo.je](http://www.jerseylegalinfo.je) <sup>[2]</sup>.

## Article 25

**Paragraph 17. “With reference to the withdrawal of the State party’s reservation to Article 25, the Committee urges the authorities to introduce further reforms that secure all their inhabitants full right of participation in the conduct of public affairs.”**

- 25.1 On 24th February 2006 the Council of Ministers lodged a proposition in the States to agree that the present restrictions on the ability of public sector employees and office-holders to engage in political activities, including standing for election to the States, should be amended and that the following public sector employees and officeholders should be categorised as ‘politically eligible’ and, therefore, able to participate in political activities subject to certain conditions –
- airport electricians
  - airport rescue and fire-fighting service
  - civil servants graded 11 or below
  - educational, technical and support staff graded 11 or below
  - emergency ambulance service
  - family support workers
  - fire and rescue service
  - Highlands College lecturers
  - manual workers
  - medical staff
  - nurses and midwives
  - postal workers
  - prison officers

- prison managers
- residential child care officers
- teachers
- youth workers

25.2 The following employees and office-holders would be categorised as ‘politically ineligible’, but would still be able to stand for election to the States subject to certain conditions –

- civil servants graded 12 or above
- educational, technical and support officers graded 12 or above
- head-teachers
- police officers
- Chief Officer and area managers of the Fire Service
- Prison Governor and Deputy Prison Governor

25.3 Under the proposals, employees designated as ‘politically eligible’ would be free to engage in any political activity, which would include – on certain terms – standing for election to the States or as a Connétable, publicly supporting someone standing for election or playing a public part in any political matter.

## Article 26

**Paragraph 18. “The Committee recommends that the authorities complete the current process of enacting legislation outlawing all racial discrimination. In accordance with Article 26, the authorities should also promulgate legislation which prohibits any discrimination and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”**

### Draft Discrimination (Jersey) Law

26.1 On May 14th 2002 the States of Jersey voted, overwhelmingly, in favour of a proposal<sup>[3]</sup> for the preparation of a Race Discrimination Law. On further consideration it was decided that it would be desirable to bring forward legislation which would promote not only the elimination of racial discrimination, but also other forms of discrimination. A public consultation paper<sup>[4]</sup> published in July 2006 promoted the idea of an over-arching enabling law and the introduction, in the first instance, of protection from race discrimination. The consultation period closes in October 2006.

26.2 The Discrimination Law is designed to establish the areas in which discrimination should not be tolerated. It will protect anyone who suffers a detriment as a result of discrimination or a range of prohibited acts such as victimisation, unlawful advertising, harassment and other discriminatory practices in certain conditions, and will provide an enforcement mechanism for complaints brought under the Law.

26.3 It is proposed that the scope of the law should extend to employment, including selection for employment, treatment of employees, contract workers, partnerships, professional or trade organisations, professional bodies and vocational training, and also discrimination in education, provision of goods, facilities and services, access to and use of public premises, disposal or management of premises and membership of clubs.

26.4 The first phase of discrimination legislation to be introduced in 2007 would comprise the principal Law together with Regulations to prohibit discrimination on the grounds of race, including colour, race, nationality, ethnic origin or national origin.

26.5 Future legislation in Jersey will provide, as a minimum, further protection from discrimination on the grounds of sex, gender, sexual orientation, trans-sexuality, disability and age. However it is recognised

that it is important to keep in perspective the need for legislation versus the size of the Island and the impact that legislation will have on resources. In order to achieve a wide range of protection and the necessary balance the legislation will need to be introduced in phases to allow for proper consultation and education about the effect of the law.

### **Succession Rights for Children Born out of Wedlock**

26.6 A number of consultative documents have been issued but on 11th November 2003, the States Assembly approved in principle the following proposals –

- (a) to repeal the laws of succession so as to allow any person to dispose of moveable estate by will as he/she sees fit, subject to paragraph (b) below;
- (b) to create a jurisdiction in the Royal Court to make such order as it thinks fit in the administration of the moveable estate as provides a proper sum out of the estate for the maintenance and support of the dependents of the deceased;
- (c) to provide a new Law for succession to moveable estate on intestacy the result of which will be to confer a share on the surviving spouse and another share on all the children of the deceased whether legitimate or illegitimate in equal shares; and
- (d) to provide protection for executors and administrators dealing with the administration of the estate of the deceased in good faith.

26.7 A draft law has been prepared and is under consideration. It is anticipated that the draft may be presented to the Assembly of the States of Jersey during 2007.

### **Article 27**

27.1 There are no further developments to report under this Article.

### **Dissemination of information about the Covenant**

28.1 The Concluding Observations of the Human Rights Committee on the fourth and fifth periodic reports of the United Kingdom regarding the Crown Dependencies of Jersey, Guernsey and Isle of Man in 2000, were published in a report (R.C.1/2001) and presented to the States of Jersey in January 2001.

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[1]

<http://www.gov.je/SocialSecurity/Employment/Jobs+In+Jersey/Employment+Relations/EmploymentRelationsLawTradeUnio>

[2] [http://www.jerseylegalinfo.je/Law/display.aspx?URL=lawsinforce%5cconsolidated%5csuperseded%5c12%5c12.600\\_MarriageandCiviStatusLaw2001\\_RevisedEdition\\_31August2004.htm](http://www.jerseylegalinfo.je/Law/display.aspx?URL=lawsinforce%5cconsolidated%5csuperseded%5c12%5c12.600_MarriageandCiviStatusLaw2001_RevisedEdition_31August2004.htm)

[3] <http://www.statesassembly.gov.je> – Projets – 2002 No. 32

[4] <http://www.gov.je/ChiefMinister/International+Relations/International+Agreements/Discrimination+%28Jersey%29+Law+200+- .htm>